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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,780	08/07/2001	Takefumi Kawasaki	D-1108	8869

7590 12/15/2003  
KANESAKA AND TAKEUCHI  
1423 Powhatan Street  
Alexandria, VA 22314

EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/922,780

Applicant(s)

KAWASAKI, TAKEFUMI

Examiner

Tung S Lau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1, 3, 4, 5, 6, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al. (U.S. Patent 5,625,457) in view of Dalphy et al (U.S. Patent 6,550,021).

Regarding claims 1, 5:

Ogawa discloses a system for a material testing machine, comprising a material testing machine having a load mechanism for applying a load to a test piece (Col. 3, Lines 25-65), sensors for detecting information regarding a load caused by the load mechanism and information regarding a condition of the test piece in accordance with the load (Col. 3, Lines 25-65), and a computer electrically connected to the sensors for receiving outputs from the sensors and processing data to thereby obtain test information of the material testing machine and image data containing load-elongation curve (Col. 3, Lines 25-65, Col. 4, Lines 15-35).

Ogawa does not disclose an outside provider electrically connected to the computer, control computer, and having a web site established therein for

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receiving outputs of the computer to update the test information and image data periodically to the web site, said web site including updated test information accessible at any time from another computer or a portable terminal.

Dalphy discloses an outside provider electrically connected to the computer, control computer (Col. 2-3, Lines 63-13), and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site (Col. 2-3, Lines 63-13), said web site including updated test information accessible at any time from another computer or a portable terminal (Col. 2-3, Lines 63-13), in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogawa to have an outside provider electrically connected to the computer, control computer, and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site, said web site including updated test information accessible at any time from another computer or a portable terminal as taught by Dalphy in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

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Regarding claims 3, 4, 6, 7, 8:

Ogawa discloses a method of testing material including the subject matter discussed above except the use of outside provider to send electronic information to the control computer, obtain information from a website, a terminal is a cellular phone, use the data as an attachment. Dalphy discloses the use of outside provider to send electronic information to the control computer (Col. 2-3, Lines 63-13), obtain information from a website (Col. 2-3, Lines 63-21), a terminal is a cellular phone (Col. 2-3, Lines 63-21), use the data as an attachment (fig. 3, unit 309), in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogawa to have the use of outside provider to send electronic information to the control computer, obtain information from a website, a terminal is a cellular phone, use the data as an attachment as taught by Dalphy in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

### ***Response to Arguments***

2. Applicant's arguments filed 11/13/2003 have been fully considered but they are not persuasive.

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**A.** Applicant argues that Dalphy does not show the limitation in claim 1. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

**B.** Applicant argues that combination of references does not show 'outside provider electrically connected to the computer, control computer'. Dalphy discloses an outside provider electrically connected to the computer, control computer (Col. 2-3, Lines 63-13), and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site (Col. 2-3, Lines 63-13), said web site including updated test information accessible at any time from another computer or a portable terminal (Col. 2-3, Lines 63-13), in order to have a remote information easy access by any computer system (Col. 2-3, Lines 63-13).

**C.** In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

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1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, both Ogawa and Dalphy deal with measuring and testing of components.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**3.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 703-308-3126. The fax phone numbers for the organization where this application or proceeding is assigned

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are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

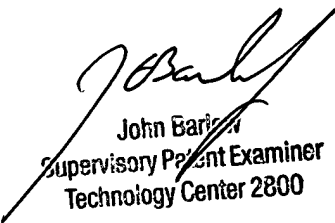
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TC2800 RightFAX Telephone Numbers : TC2800 Official Before-Final RightFAX

- (703) 872-9318, TC2800 Official After-Final RightFAX - (703) 872-9319

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